

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

D-3 HATEM ATAYA, M.D.

Defendant.

No. 15-cr-20351

Hon. Sean F. Cox

Offense: 18 U.S.C. § 1349

**Maximum Penalty:** 20 years

**Maximum Fine:** \$250,000 or twice  
the gain/loss

**F I L E D**  
OCT 12 2018

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DETROIT

**RULE 11 PLEA AGREEMENT**

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, Defendant Hatem Ataya, M.D. ("Ataya"), and the United States agree as follows:

**1. GUILTY PLEA**

**A. Count of Conviction**

Defendant will enter a plea of guilty to Count 1 of the Indictment, which charges conspiracy to commit health care fraud and wire fraud, in violation of 18 U.S.C. § 1349, and for which the penalty is a statutory maximum of 20 years' imprisonment, a fine that is the greater of \$250,000 or twice the pecuniary gain or loss pursuant to 18 U.S.C. § 3571(d), and a three-year term of supervised release.

**GOVERNMENT  
EXHIBIT**

1

**B. Elements of Offense**

The elements of Count 1 are:

- First: That two or more persons, in some way or manner, came to a mutual understanding to try and accomplish a common and unlawful plan, as charged in the Indictment; and
- Second: That the defendant, knowing the unlawful purpose of the plan, willfully joined in it.

As set forth in the Indictment, Defendant is charged with conspiring to violate the wire fraud statute, 18 U.S.C. § 1343 and health care fraud statute, 18 U.S.C. § 1347. Title 18 U.S.C. § 1347 makes it a federal offense for anyone, in connection with the delivery of any health care benefits, items, or services, to knowingly and willfully execute, or attempt to execute, a scheme or artifice: (1) to defraud any health care benefit program; or (2) to obtain, by means of materially false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program. Title 18 U.S.C. § 1343 makes it a federal offense for anyone, having devised any scheme or artifice to defraud, to transmit or cause to be transmitted in interstate or foreign commerce a wire communication for the purpose of executing such scheme or artifice.

**C. Factual Basis for Guilty Plea**

The following facts are a sufficient and accurate basis for Defendant's guilty plea:

Beginning in approximately 2009, and continuing through approximately June 2015, Defendant Ataya willfully conspired with others to commit health care fraud and wire fraud, in violation of 18 U.S.C. § 1349. Medicare is a “health care benefit program” of the United States, as defined in 18 U.S.C. § 24. Furthermore, Medicare is a health care benefit program affecting commerce.

Defendant Ataya was a licensed physician in Michigan who was enrolled as a participating provider with Medicare. Ataya owned and controlled Hatem M. Ataya, M.D., P.C., and purported to provide care to patients of Hatem M. Ataya, M.D., P.C. Ataya would refer Medicare beneficiary patients to entities owned or controlled by Shahid Tahir, including At Home Network, At Home Hospice and A Plus Hospice (“the Tahir entities”), for purported home health and hospice services. In exchange for the referrals, the Tahir entities would offer and pay kickbacks and other inducements to Ataya. Ataya’s referrals enabled the Tahir entities to submit false and fraudulent claims, through the use of interstate wires, to Medicare for these purported services, when the services were induced through the offering and providing of kickbacks, and at times, the services were neither medically necessary nor provided.

During the course of his participation in the conspiracy, Ataya caused the submission, via interstate wires, of approximately \$4 million in claims to Medicare by the Tahir entities.

The preceding statement is a summary, made for the purpose of providing the Court with a factual basis for Defendant's guilty plea to the charge against him. Defendant makes this statement knowingly and voluntarily and because he is in fact guilty of the crime charged.

**2. SENTENCING GUIDELINES**

**A. Standard of Proof**

The Court will find sentencing factors by a preponderance of the evidence.

**B. Agreed Guideline Range**

The parties agree on the applicable guidelines, except that they disagree on the sophisticated means enhancement under § 2B1.1(b)(10)(C). Specifically, the government recommends that Defendant's guideline range is 78-97 months' imprisonment, as set forth in the first set of attached worksheets, while the Defendant recommends that Defendant's guideline range is 63-78 months' imprisonment, as set forth in the second set of attached worksheets. These ranges are based on a loss amount of approximately \$4,119,711.29, which is the amount paid on claims Defendant caused to be submitted to Medicare for home health and hospice services that were induced by kickbacks.

If the Court finds:

(i) that Defendant's criminal history category is higher than reflected on the attached worksheets; or

(ii) that the offense level should be higher because, after pleading guilty, Defendant made any false statement to or withheld information from his probation officer; otherwise demonstrated a lack of acceptance of responsibility for his offense(s); or obstructed justice or committed any crime,

and if any such finding results in a guideline range higher than is recommended by the parties, then the higher guideline range becomes each party's recommended range. If, however, the Court finds that Defendant is a career offender, an armed career criminal, or a repeat and dangerous sex offender as defined under the sentencing guidelines or other federal law, and that finding is not already reflected in the attached worksheets, this paragraph does *not* authorize a corresponding increase in either party's recommended range.

Neither party may take a position concerning the applicable guidelines that is different than any position of that party as reflected in the attached worksheets, except as necessary to the Court's determination regarding subsections (i) and (ii), above.

### **3. SENTENCE**

The Court will impose a sentence pursuant to 18 U.S.C. § 3553, and in doing so must consider the sentencing guideline range.

**A. Imprisonment**

Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C), the sentence of imprisonment in this case may not exceed the top of the sentencing guideline range as determined by Paragraph 2B.

**B. Supervised Release**

A term of supervised release, if imposed, follows the term of imprisonment. There is no agreement on supervised release. In other words, the Court may impose any term of supervised release up to the statutory maximum term, which in this case is 3 years. The agreement concerning imprisonment described above in Paragraph 3A does not apply to any term of imprisonment that results from any later revocation of supervised release.

**C. Special Assessment**

Defendant will pay a special assessment of \$100 and must provide the government with a receipt for the payment before sentence is imposed.

**D. Fine**

There is no agreement as to fines. The Court may impose a fine in any amount up to \$250,000, or twice the pecuniary gain or loss, pursuant to 18 U.S.C. § 3571(d).

**E. Restitution**

The Court shall order restitution to every identifiable victim of Defendant's offense. The parties agree that the victim and the full amount of restitution in this case are as follows:

U.S. Department of Health and Human Services: \$4,119,711.29

**F. Forfeiture**

Pursuant to 18 U.S.C. § 982(a)(7) and/or 18 U.S.C. § 981(a)(1)(C) with 28 U.S.C. § 2461(c), Defendant agrees to forfeit to the United States his interest in all property, real and personal, which constitutes or is derived, directly or indirectly, from gross proceeds traceable to Defendant's conspiracy to commit healthcare fraud and wire fraud, in violation of 18 U.S.C. § 1349, as charged in Count One of the Indictment including, but not limited to, the following (hereinafter collectively referred to as the Subject Property"):

- a. Four Thousand One Hundred Fifty-Four Dollars and Eighteen Cents in United States Currency (\$4,154.18) from Talmer Bank and Trust, account number XXXXX1391, (15-FBI-004884);
- b. One Hundred Twenty-Six Thousand Eight Hundred Twenty-Seven Dollars and Thirty-Three Cents in United States Currency (\$126,827.33) from Talmer Bank and Trust, account number XXXXX2742, (15-FBI-004709);
- c. Seventy Thousand Seven Hundred Forty-Six Dollars and Ninety-Two Cents in United States Currency (\$70,746.92) from JP Morgan Chase Bank, account number XXXXX1351, (15-FBI-004185); and

- d. One Hundred Sixty-Six Thousand Nine Hundred Eighty-Nine Dollars and Eighty-Two Cents in United States Currency (\$166,989.82) from AXA Equitable Investment, account number XXXXX6015, (15-FBI-004453).

Defendant specifically acknowledges that the Subject Property constitutes or is derived, directly or indirectly, from gross proceeds traceable to Defendant's violation of 18 U.S.C. § 1349, as alleged in Count One of the Indictment, and is therefore subject to forfeiture to the United States under 18 U.S.C. § 982(a)(7) and/or 18 U.S.C. § 981(a)(1)(C) with 28 U.S.C. § 2461(c).

Defendant agrees to the entry of one or more orders of forfeiture, including the prompt entry of a Preliminary Order of Forfeiture, incorporating the above forfeiture upon application by the United States, at, or any time before, his sentencing in this case. Defendant agrees to sign such an order, indicating he consents to its entry, if requested to do so by the government. Defendant agrees that the forfeiture order shall be final as to him upon being entered by the Court.

Defendant agrees that he will cooperate with the United States by taking whatever steps are necessary to deliver clear title to the Subject Property to the United States and will execute such legal documents as may be required to transfer title to the United States and by taking whatever steps are necessary to ensure that the property is not sold, disbursed, hidden, wasted or otherwise made unavailable for forfeiture. If any other person or entity has any interest in such property, Defendant will assist in obtaining a release of interest from any such other person



or entity. Defendant further agrees that he will not assist any third party in asserting a claim to the Subject Property in any judicial forfeiture proceeding and that he will testify truthfully in any such proceeding.

Defendant acknowledges that he understands that the forfeiture of assets is part of the sentence that may be imposed in this case and waives any failure by the Court to advise him of this, pursuant to Rule 11(b)(1)(J), at the time his guilty plea is accepted.

In entering into this agreement with respect to forfeiture, Defendant knowingly, voluntarily and intelligently waives all constitutional and statutory challenges in any manner to any forfeiture carried out in accordance with this plea agreement on any grounds, including any Double Jeopardy challenge or other challenge to the above-described forfeiture based upon the Excessive Fines Clause of the Eighth Amendment to the United States Constitution.

Defendant also agrees that he shall assist the United States in all proceedings, whether administrative or judicial, involving the forfeiture, disgorgement, transfer, or surrender of all rights, title, and interest, regardless of their nature or form, in the property that Defendant has agreed to forfeit, disgorge, transfer, or surrender, and any other assets, including real and personal property, cash, and other monetary instruments, wherever located, which Defendant or others to his knowledge have accumulated as a result of illegal activities.

Defendant further agrees to identify all assets over which he exercises control, directly or indirectly, or has exercised such control, within the past five years. He also agrees to identify all assets in which he has or had during that time any financial interest and to provide all necessary and appropriate documentation with respect to said assets. Defendant agrees to take all steps as requested by the government to obtain from any other parties by any lawful means any records of assets owned at any time by Defendant. Defendant also agrees to undergo any polygraph examination the government may choose to administer concerning such assets and to provide and/or consent to the release of his tax returns for the previous five years.

Defendant expressly waives his right to have any further determination regarding the forfeitability of the Subject Property whether by judge or by a jury under Rule 32.2 of the Federal Rules of Criminal Procedure. Defendant waives the requirements of Federal Rules of Criminal Procedure 32.2 and 43(a) regarding notice of the forfeiture in the charging instrument, pronouncement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment.

Defendant agrees not to file, or assist anyone else in filing, a petition for remission and/or mitigation of the Subject Property.

Defendant further agrees to hold the United States of America, the U.S. Department of Justice, their agents and employees harmless from any claims whatsoever in connection with the seizure and forfeiture of the Subject Property.

Non-Abatement of Criminal Forfeiture: Defendant agrees that the forfeiture provisions of this Plea Agreement are intended to, and will, survive him, notwithstanding the abatement of the underlying criminal conviction after execution of this agreement. The forfeitability of any particular property under this agreement shall be determined as if Defendant had survived, and that determination shall be binding upon Defendant's heirs, successors, and assigns until the agreed forfeiture is collected in full.

**4. USE OF WITHDRAWN GUILTY PLEA**

If the Court allows Defendant to withdraw his guilty plea for a "fair and just reason," pursuant to Fed. R. Crim. P. 11(d)(2)(B), Defendant waives his rights under Fed. R. Evid. 410, and the government may use his guilty plea, any statement made under oath at the change-of-plea hearing, and the factual basis statement in this plea agreement, against him in any proceeding.

**5. EXCLUSION FROM THE MEDICARE PROGRAM AND OTHER FEDERAL HEALTH CARE PROGRAMS**

Defendant understands and acknowledges that, as a result of this plea, Defendant will be excluded from Medicare, Medicaid, and all Federal health care programs. Defendant agrees to complete and execute all necessary documents

provided by any department or agency of the federal government, including but not limited to the United States Department of Health and Human Services, to effectuate this exclusion within 60 days of receiving the documents. This exclusion will not affect Defendant's right to apply for and receive benefits as a beneficiary under any Federal health care program, including Medicare and Medicaid.

**6. COLLATERAL CONSEQUENCES OF CONVICTION**

Defendant understands that his conviction here may carry additional consequences under federal and state law, including the potential loss of the right to vote, right to carry a firearm, right to serve on a jury, and ability to hold certain licenses or to be employed in certain fields. Defendant further understands that, if he is not a native-born citizen of the United States, there may be adverse immigration consequences resulting from conviction. These include possible removal from the United States, denial of citizenship, denaturalization, denied admission to the United States in the future and other possible consequences. Defendant understands that no one, including the defendant's attorney or the Court, can predict to a certainty the effect of defendant's conviction on any of these matters. Defendant nevertheless affirms that he chooses to plead guilty regardless of any immigration consequences or other collateral consequences of his conviction.

**7. OTHER CHARGES**

If the Court accepts this agreement, the government will dismiss the remaining charge in this case against Defendant.

**8. RIGHT TO WITHDRAW**

The government may withdraw from this agreement if the Court finds the correct guideline range to be different than is determined by Paragraph 2B.

Defendant may withdraw from his agreement, and may withdraw his guilty plea, if the Court decides to impose a sentence higher than the maximum allowed by Part 3.

This is the only reason for which Defendant may withdraw from this agreement. The Court shall advise Defendant that, if he does not withdraw from his guilty plea under this circumstance, the Court may impose a sentence greater than the maximum allowed by Part 3.

**9. WAIVER OF RIGHT TO APPEAL**

Defendant waives any right he may have to appeal his conviction on any grounds. If Defendant's sentence of imprisonment does not exceed the maximum allowed by Part 3 of this agreement, Defendant also waives any right he may have to appeal his sentence on any grounds. If Defendant's sentence of imprisonment is within the guideline range determined by Paragraph 2B, the government agrees not to appeal the sentence, but retains its right to appeal any sentence below that range.

This waiver shall not be construed to bar a claim by Defendant of ineffective assistance of counsel.

**10. CONSEQUENCES OF WITHDRAWAL OF GUILTY PLEA/VACATION OF CONVICTION**

If the defendant is allowed to withdraw his guilty plea or if any conviction entered pursuant to this agreement is vacated, the Court shall, on the government's request, reinstate any charges that were dismissed as part of this agreement. If additional charges are filed against the defendant within six months after the date of the order vacating the defendant's conviction or allowing him to withdraw his guilty plea becomes final, which charges relate directly or indirectly to the conduct underlying the guilty plea or to any conduct reflected in the attached worksheets, the defendant waives his right to challenge the additional charges on the ground that they were not filed in a timely manner, including any claim that they were filed after the limitations period expired.

**11. PARTIES TO PLEA AGREEMENT**

Unless otherwise indicated, this agreement does not bind any government agency except the United States Department of Justice, Criminal Division, Fraud Section and the United States Attorney's Office for the Eastern District of Michigan.

**12. SCOPE OF PLEA AGREEMENT**


This agreement, which includes all documents that it explicitly incorporates, is the complete agreement between the parties. This agreement supersedes all other

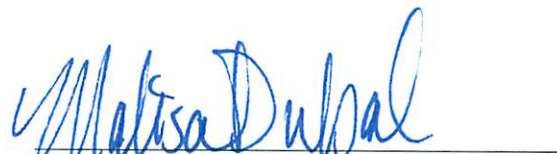
promises, representations, understandings, and agreements between the parties concerning the subject matter of this Plea Agreement that are made at any time before the guilty plea is entered in court. Thus, no oral or written promises made by the government to Defendant or to the attorney for Defendant at any time before Defendant pleads guilty are binding except to the extent they have been explicitly incorporated into this agreement.

Notwithstanding the previous paragraph, if Defendant has entered into a proffer agreement in writing or a cooperation agreement in writing with the government, this Plea Agreement does not supersede or abrogate the terms of any such prior written agreement.

This agreement also does not prevent any civil or administrative actions against Defendant, or any forfeiture claim against any property, by the United States or any other party.

MATTHEW SCHNEIDER  
*United States Attorney*

  
WAYNE F. PRATT  
*Chief, Health Care Fraud Unit  
United States Attorney's Office  
Eastern District of Michigan*

  
MALISA DUBAL  
*Assistant Chief  
U.S. Department of Justice  
Criminal Division, Fraud Section*



THOMAS J. TYNAN

*Trial Attorney*

*U.S. Department of Justice*


*Criminal Division, Fraud Section*



By signing below, Defendant acknowledges that he has read (or been read) this entire document, understands it, and agrees to its terms. He also acknowledges that he is satisfied with his attorney's advice and representation. Defendant agrees that he has had a full and complete opportunity to confer with his lawyer and has had all of his questions answered by his lawyer.

  
\_\_\_\_\_  
DAVID STEINGOLD  
*Attorney for Defendant*

Date: 10/12/18

  
\_\_\_\_\_  
HATEM ATAYA  
*Defendant*

Date: 10/12/18

# WORKSHEET A

## OFFENSE LEVEL

Defendant Hatem Ataya District/Office Eastern District of MichiganDocket Number 15-CR-20351Count Number(s) 1 U.S. Code Title & Section 18: 1349; \_\_\_\_\_:

Guidelines Manual Edition Used: 20\_\_ (Note: The Worksheets are keyed to the November 1, 2016 Guidelines Manual)

### INSTRUCTIONS

Complete a separate Worksheet A for each count of conviction or as required in a situation listed at the bottom of Worksheet B.\*  
*Exceptions:* Use only a single Worksheet A where the offense level for a group of closely related counts is based primarily on aggregate value or quantity (see §3D1.2(d)) or where a count of conspiracy, solicitation, or attempt is grouped with a substantive count that was the sole object of the conspiracy, solicitation, or attempt (see §3D1.2(a) & (b)).

#### 1. Offense Level (See Chapter Two)

Enter the applicable base offense level and any specific offense characteristics from Chapter Two and explain the bases for these determinations. Enter the sum in the box provided.

Guideline	Description	Level
2B1.1(a)(1)	Base Offense Level	7
2B1.1(b)(1)(J)	Intended Loss (More than \$3.5 million)	18
2B1.1(b)(7)	Federal Health Care Offense (More than \$1 million)	2
2B1.1(b)(10)(C)	Sophisticated Means	2

If the Chapter Two guideline requires application of a cross reference or other reference, an additional Worksheet A may be needed for that analysis. See §1B1.5.

Sum 29

#### 2. Victim-Related Adjustments (See Chapter Three, Part A)

Enter the applicable section and adjustment. If more than one section is applicable, list each section and enter the combined adjustment. If no adjustment is applicable, enter "0".

§ \_\_\_\_\_  

#### 3. Role in the Offense Adjustments (See Chapter Three, Part B)

Enter the applicable section and adjustment. If more than one section is applicable, list each section and enter the combined adjustment. If the adjustment reduces the offense level, enter a minus (–) sign in front of the adjustment. If no adjustment is applicable, enter "0".

§ 3B1.3 2

#### 4. Obstruction Adjustments (See Chapter Three, Part C)

Enter the applicable section and adjustment. If more than one section is applicable, list each section and enter the combined adjustment. If no adjustment is applicable, enter "0".

§ \_\_\_\_\_  

#### 5. Adjusted Offense Level

Enter the sum of Items 1–4. If this Worksheet A does not cover all counts of conviction or situations listed at the bottom of Worksheet B, complete Worksheet B. Otherwise, enter this result on Worksheet D, Item 1.

31

☒ Check here if **all** counts (including situations listed at the bottom of Worksheet B)\* are addressed on this one Worksheet A. If so, no Worksheet B is used.

☐ If the defendant has no criminal history, enter "T" here and on Worksheet D, Item 4. No Worksheet C is used.

# WORKSHEET B

## MULTIPLE COUNTS\*

Defendant Hatem AtayaDocket Number 15-CR-20351

### INSTRUCTIONS

**STEP 1:** Determine if any of the counts group under §3D1.2(a)–(d) (“the grouping rules”). All, some, or none of the counts may group. Some of the counts may have already been grouped in the application under Worksheet A, specifically: (1) counts grouped under §3D1.2(d); or (2) a count charging conspiracy, solicitation, or attempt that is grouped with the substantive count of conviction (see §3D1.2(a)). Explain the reasons for grouping:

**STEP 2:** Using the box(es) provided below, for each group of “closely related counts” (i.e., counts that group together under any of the four grouping rules), enter the highest adjusted offense level from Item 5 of the various Worksheets “A” that comprise the group. See §3D1.3. Note that a “group” may consist of a single count that has not grouped with any other count. In those instances, the offense level for the group will be the adjusted offense level for the single count.

**STEP 3:** Enter the number of units to be assigned to each group (see §3D1.4) as follows:

- One unit (1) for the group of counts with the highest offense level
- An additional unit (1) for each group that is equally serious or 1 to 4 levels less serious
- An additional half unit (1/2) for each group that is 5 to 8 levels less serious
- No increase in units for groups that are 9 or more levels less serious

#### 1. Adjusted Offense Level for the First Group of Counts

Count number(s) \_\_\_\_\_

\_\_\_\_ Unit

#### 2. Adjusted Offense Level for the Second Group of Counts

Count number(s) \_\_\_\_\_

\_\_\_\_ Unit

#### 3. Adjusted Offense Level for the Third Group of Counts

Count number(s) \_\_\_\_\_

\_\_\_\_ Unit

#### 4. Adjusted Offense Level for the Fourth Group of Counts

Count number(s) \_\_\_\_\_

\_\_\_\_ Unit

#### 5. Adjusted Offense Level for the Fifth Group of Counts

Count number(s) \_\_\_\_\_

\_\_\_\_ Unit

#### 6. Total Units

\_\_\_\_ Total Units

#### 7. Increase in Offense Level Based on Total Units (See §3D1.4)

1 unit:	no increase	2½ – 3 units:	add 3 levels
1½ units:	add 1 level	3½ – 5 units:	add 4 levels
2 units:	add 2 levels	More than 5 units:	add 5 levels

#### 8. Highest of the Adjusted Offense Levels from Items 1–5 Above

#### 9. Combined Adjusted Offense Level (See §3D1.4)

Enter the sum of Items 7 &amp; 8 here and on Worksheet D, Item 1.

\*Note: Worksheet B also includes applications that are done “as if there were multiple counts of convictions,” including: multiple-object conspiracies (see §1B1.2(d)); offense guidelines that direct such application (e.g., §2G2.1(d)(1) (Child Porn Production)); and stipulations to additional offenses (see §1B1.2(c)). Note also that these situations typically require the use of multiple Worksheets A.



# WORKSHEET C

## CRIMINAL HISTORY

[Page 1 of 2]

Defendant Hatem AtayaDocket Number 15-CR-20351

Note: As an aid, some of the basic criminal history "rules" are listed below. However, there are numerous additional criminal history rules at §§4A1.1 and 4A1.2 that must be used with Worksheet C and for correct application.

Enter the Earliest Date of the Defendant's Relevant Conduct \_\_\_\_\_  
 (The date of the defendant's commencement of the instant offense(s))

### 1. Prior Sentences Resulting from Offenses Committed Prior to the Defendant's 18th Birthday

- (a) **3 Points** if convicted as an **adult**, for each prior sentence of imprisonment **exceeding one year and one month** imposed within 15 years of the defendant's earliest date of relevant conduct or resulting in incarceration during any part of that 15-year period. See §§4A1.1(a) and 4A1.2(d)(1) & (e)(1).
- (b) **2 Points** for each prior **adult or juvenile sentence** of confinement of **at least 60 days** not counted under §4A1.1(a) imposed within 5 years or from which the defendant was released from confinement within 5 years of the defendant's earliest date of relevant conduct. See §§4A1.1(b) and 4A1.2(d)(2)(A).
- (c) **1 Point** for each prior **adult or juvenile sentence** not counted under §4A1.1(a) or §4A1.1(b) imposed within 5 years of the defendant's earliest date of relevant conduct. See §§4A1.1(c) and 4A1.2(d)(2)(B).

Note: Identify as "**adult**" any sentence exceeding one year and one month that resulted from an adult conviction.

A **release date** is required in only two instances: (1) when a sentence covered under §4A1.1(a) was imposed more than 15 years prior to the defendant's earliest date of relevant conduct but resulted in the defendant being incarcerated during any part of such 15-year period; or (2) when a sentence counted under §4A1.1(b) was imposed more than 5 years prior to the defendant's earliest date of relevant conduct, but release from confinement occurred within such 5-year period.

Date of Imposition	Offense	Sentence	Release Date	Guideline Section	Criminal History Points

### 2. Prior Sentences Resulting from Offenses Committed On or After the Defendant's 18th Birthday

- (a) **3 Points** for each prior sentence of imprisonment **exceeding one year and one month** imposed within 15 years of the defendant's earliest date of relevant conduct or resulting in incarceration during any part of that 15-year period. See §§4A1.1(a) and 4A1.2(e)(1).
- (b) **2 Points** for each prior sentence of imprisonment of **at least 60 days** not counted under §4A1.1(a) imposed within 10 years of the defendant's earliest date of relevant conduct. See §§4A1.1(b) and 4A1.2(e)(2).
- (c) **1 Point** for each prior sentence not counted under §4A1.1(a) or §4A1.1(b) imposed within 10 years of the defendant's earliest date of relevant conduct. See §§4A1.1(c) and 4A1.2(e)(2).

Note: A **release date** is required when a sentence covered under §4A1.1(a) was imposed more than 15 years prior to the defendant's earliest date of relevant conduct but resulted in the defendant being incarcerated during any part of such 15-year period.

Date of Imposition	Offense	Sentence	Release Date	Guideline Section	Criminal History Points

**Worksheet C — Criminal History [Page 2 of 2]**Defendant Hatem AtayaDocket Number 15-CR-20351(continued from *Sentences Resulting from Offenses Committed On or After the Defendant's 18th Birthday*)

Date of Imposition	Offense	Sentence	Release Date	Guideline Section	Criminal History Points

**3. Sum of Criminal History Points for prior sentences under §4A1.1(a), (b), & (c) in Items 1 & 2**

A total of 4 points can be added for all the 1-Point sentences counted in Items 1 &amp; 2 combined.

**4. "Status" of Defendant at Time of Instant Offense**

**2 Points** for "status" if the defendant committed any part of the instant offense (*i.e.*, any relevant conduct) while under any criminal justice sentence (*e.g.*, probation, parole, supervised release, imprisonment, work release, or escape status) for a sentence counted in Items 1 or 2. *See* §4A1.1(d) and Application Note 4. List the type of control and identify the counted sentence that resulted in the control. Otherwise, enter **0 Points**.

**5. Crimes of Violence**

**1 Point** for each prior sentence resulting from a conviction of a crime of violence that did not receive any points under §4A1.1(a), (b), or (c) because such sentence was counted as a single sentence which also included another sentence resulting from a conviction for a crime of violence. A total of 3 points can be added under this subsection. *See* §4A1.1(e) and Application Note 5, and §4A1.2(a)(2) & (p). Identify the crimes of violence and briefly explain why the cases are considered a single sentence. Otherwise, enter **0 Points**.

**4. Total Criminal History Points (Sum of Items 3–5)****5. Criminal History Category (Enter here and on Worksheet D, Item 4)**

Total Points	Criminal History Category
0–1	I
2–3	II
4–6	III
7–9	IV
10–12	V
13 or more	VI



# WORKSHEET D

## DETERMINING THE SENTENCE

[Page 1 of 4]

Defendant Hatem AtayaDocket Number 15-CR-20351**1. Adjusted Offense Level** (From Worksheet A or B)

If Worksheet B is required, enter the result from Worksheet B, Item 9. Otherwise, enter the result from Worksheet A, Item 5.

31

**2. Acceptance of Responsibility** (See Chapter Three, Part E)

Enter the applicable reduction of 2 or 3 levels. If no adjustment is applicable, enter "0".

- 3

**3. Offense Level Total** (Item 1 less Item 2)

28

**4. Criminal History Category** (From Worksheet A or C)

Enter the result from Worksheet C, Item 8, unless the defendant has no criminal history, and as directed at the bottom of Worksheet A, no Worksheet C is used and "I" is entered here.

**5. Terrorism; Career Offender; Criminal Livelihood; Armed Career Criminal; Repeat and Dangerous Sex Offender** (See Chapter Three, Part A, and Chapter Four, Part B)**a. Offense Level Total**

If the provision for Career Offender (§4B1.1), Criminal Livelihood (§4B1.3), Armed Career Criminal (§4B1.4), or Repeat and Dangerous Sex Offender (§4B1.5) results in an offense level total higher than Item 3, enter the offense level total. Otherwise, enter "N/A".

**b. Criminal History Category**

If the provision for Terrorism (§3A1.4), Career Offender (§4B1.1), Armed Career Criminal (§4B1.4), or Repeat and Dangerous Sex Offender (§4B1.5) results in a criminal history category higher than Item 4, enter the applicable criminal history category. Otherwise, enter "N/A".

**6. Guideline Range from Sentencing Table**

Enter the applicable guideline range from Chapter Five, Part A, in months.

78 to 97

**7. Restricted Guideline Range** (See Chapter Five, Part G)

If the statutorily authorized maximum sentence or the statutorily required minimum sentence restricts the guideline range (Item 6) (see §§5G1.1 and 5G1.2), enter either the restricted guideline range or any statutory maximum or minimum penalty that would modify the guideline range. Otherwise, enter "N/A".

to

Check here if §5C1.2 (Limitation on Applicability of Statutory Minimum Penalties in Certain Cases) and 18 U.S.C. § 3553(e) – "The Safety Valve" – are applicable.

**8. Undischarged Term of Imprisonment; Anticipated State Term of Imprisonment** (See §5G1.3)

If the defendant is subject to an undischarged term of imprisonment, or an anticipated state term of imprisonment, check this box. Below list the undischarged/anticipated term(s), the applicable section of §5G1.3 and its direction or guidance as to whether the instant federal sentence is to be imposed to run concurrently or consecutively to the undischarged/anticipated term(s), and any sentence adjustment.

**Worksheet D — Determining the Sentence** [Page 2 of 4]Defendant Hatem AtayaDocket Number 15-CR-20351**9. Sentencing Options** (See Chapter Five, Sentencing Table and §§5B1.1(a) and 5C1.1)

Check the applicable box that corresponds to the Guideline Range entered in Item 6 or Item 7, if applicable.

**Zone A** (See §§5B1.1(a)(1) & 5C1.1(a) & (b))☐

If checked, the following options are available:

- Fine (See §§5C1.1(b) & 5E1.2(a))
- “Straight” Probation (See §§5B1.1(a)(1) & 5C1.1(b))
- Imprisonment (See §5C1.1(a) & (c)(1))

**Zone B** (See §§5B1.1(a)(2) & 5C1.1(a) & (c))☐If checked, *the minimum term may be satisfied by:*

- Imprisonment (See §5C1.1(a) & (c)(2))
- Imprisonment of ***at least one month plus supervised release*** with a condition that substitutes community confinement or home detention for imprisonment (See §5C1.1(c)(2))
- Probation with a condition that substitutes intermittent confinement, community confinement, or home detention for imprisonment (See §§5B1.1(a)(2) and 5C1.1(c)(3))

**Zone C** (See §5C1.1(a) & (d))☐If checked, *the minimum term may be satisfied by:*

- Imprisonment (See §5C1.1(a) & (d)(1))
- Imprisonment of ***at least one-half of the minimum term plus supervised release*** with a condition that substitutes community confinement or home detention for imprisonment (See §5C1.1(d)(2))

**Zone D** (See §5C1.1(a) & (f))☒If checked, *the minimum term is to be satisfied by* a sentence of imprisonment**10. Length of Term of Probation** (See §5B1.2)

If probation is imposed, the guideline for the length of such term of probation is: (Check the applicable box)

☐

At least one year, but not more than five years if the offense level total is 6 or greater.

☐

No more than three years if the offense level total is 5 or less.



**Worksheet D — Determining the Sentence** [Page 3 of 4]Defendant Hatem AtayaDocket Number 15-CR-20351**11. Supervised Release** (See §§5D1.1 and 5D1.2)**a. Imposition of a Term of Supervised Release:**☐

Ordered because required by statute (See §5D1.1(a)(1)).

☒

Ordered because a sentence of imprisonment of more than one year is imposed (See §5D1.1(a)(2)).

☐Is **not** ordered although a sentence of more than one year is imposed, because it is not required by statute **and** the defendant likely will be deported after imprisonment (See §5D1.1(c)).☐

Ordered because it may be ordered in any other case (See §5D1.1(b)).

**b. Length of Term of Supervised Release**

Check the Class of the Offense:

☐

Class A or B Felony: Two to Five Year Term (See §5D1.2(a)(1))

☒

Class C or D Felony: One to Three Year Term (See §5D1.2(a)(2))

☐

Class E Felony or Class A Misdemeanor: One Year Term (See §5D1.2(a)(3))

☐

If a statutorily required mandatory minimum term of supervised release for the offense impacts the guideline range for the applicable Class of Offense above, also check this box, and list the statutory minimum term (See §5D1.2(c)):

\_\_\_\_\_ years mandatory minimum term of supervised release

☐

If an offense in 18 U.S.C. § 2332b(g)(5)(B) that resulted in, or created a foreseeable risk of, death or serious bodily injury to another person; or if a sex offense, the term of supervised release will not be less than the minimum term established above, and may be up to life (See §5D1.2(b)).

Policy Statement: If a sex offense, the *statutory maximum term* of supervised release is recommended.**12. Restitution** (See §5E1.1)**a. If restitution is applicable, enter the amount. Otherwise enter "N/A" and the reason:**\$4,119,711.29**b. Enter whether restitution is statutorily mandatory or discretionary:**Mandatory.**c. Enter whether restitution is by an order of restitution, or *solely* as a condition of supervision. Enter the authorizing statute:**Order of restitution.



**Worksheet D — Determining the Sentence** [Page 4 of 4]Defendant Hatem AtayaDocket Number 15-CR-20351**13. Fines (The Guideline Range for Fines for Individual Defendants) (See §5E1.2)****a. Special Fine Provisions****Minimum****Maximum**☐

Check box if any of the counts of conviction is for a statute with a special fine provision. (This **does not** include the general fine provisions of 18 USC § 3571(b)(2) & (d)).

Enter the sum of statutory maximum fines for all such counts.

\$

**b. Fine Table (§5E1.2(c)(3))**

Enter the minimum and maximum fines.

\$ 25,000

\$ 250,000

**c. Fine Guideline Range**

(Determined by the minimum of the Fine Table (Item 15(b)) and the greater maximum above (Item 15(a) or 15(b))).

\$ 25,000

\$ 250,000

**d. Ability to Pay**☐

Check this box if the defendant does not have an ability to pay.

**14. Special Assessments for Individual Defendants (See §5E1.3)**

Enter the total amount of the statutory special assessments required for all counts of conviction:

- \$100 for each felony count of conviction.
- \$25 for each Class A misdemeanor count of conviction.
- While not subject to guideline sentencing, the special assessments for a Class B misdemeanor, and a Class C misdemeanor or infraction are \$10 and \$5 per count, respectively.

TOTAL:

\$ 100

**15. Factors That May Warrant a Departure (See §1B1.1(b))**

Consider Chapter Five, Part H (Specific Offender Characteristics) and Part K (Departures), and other policy statements and commentary in the *Guidelines Manual* that might warrant consideration in sentencing. (See also the "List of Departure Provisions" included in the *Guidelines Manual* after the Index).

**16. Factors That May Warrant a Variance (See §1B1.1(c))**

Consider the applicable factors in 18 U.S.C. § 3553(a) taken as a whole.

Completed by \_\_\_\_\_

Date \_\_\_\_\_

# WORKSHEET A

## OFFENSE LEVEL

Defendant Hatem Ataya District/Office Eastern District of MichiganDocket Number 15-CR-20351Count Number(s) 1 U.S. Code Title & Section 18 : 1349 ; \_\_\_\_\_ : \_\_\_\_\_

Guidelines Manual Edition Used: 20\_\_ (Note: The Worksheets are keyed to the November 1, 2016 Guidelines Manual)

### INSTRUCTIONS

Complete a separate Worksheet A for each count of conviction or as required in a situation listed at the bottom of Worksheet B.\*  
*Exceptions:* Use only a single Worksheet A where the offense level for a group of closely related counts is based primarily on aggregate value or quantity (see §3D1.2(d)) or where a count of conspiracy, solicitation, or attempt is grouped with a substantive count that was the sole object of the conspiracy, solicitation, or attempt (see §3D1.2(a) & (b)).

#### 1. Offense Level (See Chapter Two)

Enter the applicable base offense level and any specific offense characteristics from Chapter Two and explain the bases for these determinations. Enter the sum in the box provided.

Guideline	Description	Level
2B1.1(a)(1)	Base Offense Level	7
2B1.1(b)(1)(J)	Intended Loss (More than \$3.5 million)	18
2B1.1(b)(7)	Federal Health Care Offense (More than \$1 million)	2
_____	_____	_____
_____	_____	_____

If the Chapter Two guideline requires application of a cross reference or other reference, an additional Worksheet A may be needed for that analysis. See §1B1.5.

Sum 27

#### 2. Victim-Related Adjustments (See Chapter Three, Part A)

Enter the applicable section and adjustment. If more than one section is applicable, list each section and enter the combined adjustment. If no adjustment is applicable, enter "0".

§ \_\_\_\_\_ 

#### 3. Role in the Offense Adjustments (See Chapter Three, Part B)

Enter the applicable section and adjustment. If more than one section is applicable, list each section and enter the combined adjustment. If the adjustment reduces the offense level, enter a minus (–) sign in front of the adjustment. If no adjustment is applicable, enter "0".

§ 3B1.3 2

#### 4. Obstruction Adjustments (See Chapter Three, Part C)

Enter the applicable section and adjustment. If more than one section is applicable, list each section and enter the combined adjustment. If no adjustment is applicable, enter "0".

§ \_\_\_\_\_ 

#### 5. Adjusted Offense Level

Enter the sum of Items 1–4. If this Worksheet A does not cover all counts of conviction or situations listed at the bottom of Worksheet B, complete Worksheet B. Otherwise, enter this result on Worksheet D, Item 1.

29

☒ Check here if **all** counts (including situations listed at the bottom of Worksheet B)\* are addressed on this one Worksheet A. If so, no Worksheet B is used.

☐ If the defendant has no criminal history, enter "T" here and on Worksheet D, Item 4. No Worksheet C is used.



# WORKSHEET B

## MULTIPLE COUNTS\*

Defendant Hatem AtayaDocket Number 15-CR-20351

### INSTRUCTIONS

**STEP 1:** Determine if any of the counts group under §3D1.2(a)–(d) (“the grouping rules”). All, some, or none of the counts may group. Some of the counts may have already been grouped in the application under Worksheet A, specifically: (1) counts grouped under §3D1.2(d); or (2) a count charging conspiracy, solicitation, or attempt that is grouped with the substantive count of conviction (see §3D1.2(a)). Explain the reasons for grouping:

\_\_\_\_\_

\_\_\_\_\_

**STEP 2:** Using the box(es) provided below, for each group of “closely related counts” (i.e., counts that group together under any of the four grouping rules), enter the highest adjusted offense level from Item 5 of the various Worksheets “A” that comprise the group. See §3D1.3. Note that a “group” may consist of a single count that has not grouped with any other count. In those instances, the offense level for the group will be the adjusted offense level for the single count.

**STEP 3:** Enter the number of units to be assigned to each group (see §3D1.4) as follows:

- One unit (1) for the group of counts with the highest offense level
- An additional unit (1) for each group that is equally serious or 1 to 4 levels less serious
- An additional half unit (1/2) for each group that is 5 to 8 levels less serious
- No increase in units for groups that are 9 or more levels less serious

#### 1. Adjusted Offense Level for the First Group of Counts

Count number(s) \_\_\_\_\_

\_\_\_\_ Unit

#### 2. Adjusted Offense Level for the Second Group of Counts

Count number(s) \_\_\_\_\_

\_\_\_\_ Unit

#### 3. Adjusted Offense Level for the Third Group of Counts

Count number(s) \_\_\_\_\_

\_\_\_\_ Unit

#### 4. Adjusted Offense Level for the Fourth Group of Counts

Count number(s) \_\_\_\_\_

\_\_\_\_ Unit

#### 5. Adjusted Offense Level for the Fifth Group of Counts

Count number(s) \_\_\_\_\_

\_\_\_\_ Unit

#### 6. Total Units

\_\_\_\_ Total Units

#### 7. Increase in Offense Level Based on Total Units (See §3D1.4)

1 unit:	no increase	2½ – 3 units:	add 3 levels
1½ units:	add 1 level	3½ – 5 units:	add 4 levels
2 units:	add 2 levels	More than 5 units:	add 5 levels

#### 8. Highest of the Adjusted Offense Levels from Items 1–5 Above

#### 9. Combined Adjusted Offense Level (See §3D1.4)

Enter the sum of Items 7 &amp; 8 here and on Worksheet D, Item 1.

\*Note: Worksheet B also includes applications that are done “as if there were multiple counts of convictions,” including: multiple-object conspiracies (see §1B1.2(d)); offense guidelines that direct such application (e.g., §2G2.1(d)(1) (Child Porn Production)); and stipulations to additional offenses (see §1B1.2(c)). Note also that these situations typically require the use of multiple Worksheets A.

# WORKSHEET C

## CRIMINAL HISTORY

[Page 1 of 2]

Defendant Hatem AtayaDocket Number 15-CR-20351

Note: As an aid, some of the basic criminal history "rules" are listed below. However, there are numerous additional criminal history rules at §§4A1.1 and 4A1.2 that must be used with Worksheet C and for correct application.

Enter the Earliest Date of the Defendant's Relevant Conduct \_\_\_\_\_  
 (The date of the defendant's commencement of the instant offense(s))

### 1. Prior Sentences Resulting from Offenses Committed Prior to the Defendant's 18th Birthday

- (a) **3 Points** if convicted as an **adult**, for each prior sentence of imprisonment **exceeding one year and one month** imposed within 15 years of the defendant's earliest date of relevant conduct or resulting in incarceration during any part of that 15-year period. See §§4A1.1(a) and 4A1.2(d)(1) & (e)(1).
- (b) **2 Points** for each prior **adult or juvenile sentence** of confinement of **at least 60 days** not counted under §4A1.1(a) imposed within 5 years or from which the defendant was released from confinement within 5 years of the defendant's earliest date of relevant conduct. See §§4A1.1(b) and 4A1.2(d)(2)(A).
- (c) **1 Point** for each prior **adult or juvenile sentence** not counted under §4A1.1(a) or §4A1.1(b) imposed within 5 years of the defendant's earliest date of relevant conduct. See §§4A1.1(c) and 4A1.2(d)(2)(B).

Note: Identify as "**adult**" any sentence exceeding one year and one month that resulted from an adult conviction.

A **release date** is required in only two instances: (1) when a sentence covered under §4A1.1(a) was imposed more than 15 years prior to the defendant's earliest date of relevant conduct but resulted in the defendant being incarcerated during any part of such 15-year period; or (2) when a sentence counted under §4A1.1(b) was imposed more than 5 years prior to the defendant's earliest date of relevant conduct, but release from confinement occurred within such 5-year period.

Date of Imposition	Offense	Sentence	Release Date	Guideline Section	Criminal History Points

### 2. Prior Sentences Resulting from Offenses Committed On or After the Defendant's 18th Birthday

- (a) **3 Points** for each prior sentence of imprisonment **exceeding one year and one month** imposed within 15 years of the defendant's earliest date of relevant conduct or resulting in incarceration during any part of that 15-year period. See §§4A1.1(a) and 4A1.2(e)(1).
- (b) **2 Points** for each prior sentence of imprisonment of **at least 60 days** not counted under §4A1.1(a) imposed within 10 years of the defendant's earliest date of relevant conduct. See §§4A1.1(b) and 4A1.2(e)(2).
- (c) **1 Point** for each prior sentence not counted under §4A1.1(a) or §4A1.1(b) imposed within 10 years of the defendant's earliest date of relevant conduct. See §§4A1.1(c) and 4A1.2(e)(2).

Note: A **release date** is required when a sentence covered under §4A1.1(a) was imposed more than 15 years prior to the defendant's earliest date of relevant conduct but resulted in the defendant being incarcerated during any part of such 15-year period.

Date of Imposition	Offense	Sentence	Release Date	Guideline Section	Criminal History Points



**Worksheet C — Criminal History** [Page 2 of 2]Defendant Hatem AtayaDocket Number 15-CR-20351(continued from *Sentences Resulting from Offenses Committed On or After the Defendant's 18th Birthday*)

Date of Imposition	Offense	Sentence	Release Date	Guideline Section	Criminal History Points

**3. Sum of Criminal History Points for prior sentences under §4A1.1(a), (b), & (c) in Items 1 & 2**

A total of 4 points can be added for all the 1-Point sentences counted in Items 1 &amp; 2 combined.

**4. "Status" of Defendant at Time of Instant Offense**

**2 Points** for "status" if the defendant committed any part of the instant offense (*i.e.*, any relevant conduct) while under any criminal justice sentence (e.g., probation, parole, supervised release, imprisonment, work release, or escape status) for a sentence counted in Items 1 or 2. *See* §4A1.1(d) and Application Note 4. List the type of control and identify the counted sentence that resulted in the control. Otherwise, enter **0 Points**.

**5. Crimes of Violence**

**1 Point** for each prior sentence resulting from a conviction of a crime of violence that did not receive any points under §4A1.1(a), (b), or (c) because such sentence was counted as a single sentence which also included another sentence resulting from a conviction for a crime of violence. A total of 3 points can be added under this subsection. *See* §4A1.1(e) and Application Note 5, and §4A1.2(a)(2) & (p). Identify the crimes of violence and briefly explain why the cases are considered a single sentence. Otherwise, enter **0 Points**.

**4. Total Criminal History Points** (Sum of Items 3–5)**5. Criminal History Category** (Enter here and on Worksheet D, Item 4)

Total Points	Criminal History Category
0–1	I
2–3	II
4–6	III
7–9	IV
10–12	V
13 or more	VI

# WORKSHEET D

## DETERMINING THE SENTENCE

[Page 1 of 4]

Defendant Hatem Ataya

Docket Number 15-CR-20351

### 1. Adjusted Offense Level (From Worksheet A or B)

If Worksheet B is required, enter the result from Worksheet B, Item 9. Otherwise, enter the result from Worksheet A, Item 5.

29

### 2. Acceptance of Responsibility (See Chapter Three, Part E)

Enter the applicable reduction of 2 or 3 levels. If no adjustment is applicable, enter "0".

- 3

### 3. Offense Level Total (Item 1 less Item 2)

26

### 4. Criminal History Category (From Worksheet A or C)

Enter the result from Worksheet C, Item 8, unless the defendant has no criminal history, and as directed at the bottom of Worksheet A, no Worksheet C is used and "I" is entered here.

### 5. Terrorism; Career Offender; Criminal Livelihood; Armed Career Criminal; Repeat and Dangerous Sex Offender (See Chapter Three, Part A, and Chapter Four, Part B)

#### a. Offense Level Total

If the provision for Career Offender (§4B1.1), Criminal Livelihood (§4B1.3), Armed Career Criminal (§4B1.4), or Repeat and Dangerous Sex Offender (§4B1.5) results in an offense level total higher than Item 3, enter the offense level total. Otherwise, enter "N/A".

#### b. Criminal History Category

If the provision for Terrorism (§3A1.4), Career Offender (§4B1.1), Armed Career Criminal (§4B1.4), or Repeat and Dangerous Sex Offender (§4B1.5) results in a criminal history category higher than Item 4, enter the applicable criminal history category. Otherwise, enter "N/A".

### 6. Guideline Range from Sentencing Table

Enter the applicable guideline range from Chapter Five, Part A, in months.

63      to 78

### 7. Restricted Guideline Range (See Chapter Five, Part G)

If the statutorily authorized maximum sentence or the statutorily required minimum sentence restricts the guideline range (Item 6) (see §§5G1.1 and 5G1.2), enter either the restricted guideline range or any statutory maximum or minimum penalty that would modify the guideline range. Otherwise, enter "N/A".

to

☐

Check here if §5C1.2 (Limitation on Applicability of Statutory Minimum Penalties in Certain Cases) and 18 U.S.C. § 3553(e) – "The Safety Valve" – are applicable.

### 8. Undischarged Term of Imprisonment; Anticipated State Term of Imprisonment (See §5G1.3)

☐

If the defendant is subject to an undischarged term of imprisonment, or an anticipated state term of imprisonment, check this box. Below list the undischarged/anticipated term(s), the applicable section of §5G1.3 and its direction or guidance as to whether the instant federal sentence is to be imposed to run concurrently or consecutively to the undischarged/anticipated term(s), and any sentence adjustment.



**Worksheet D — Determining the Sentence** [Page 2 of 4]Defendant Hatem AtayaDocket Number 15-CR-20351**9. Sentencing Options** (See Chapter Five, Sentencing Table and §§5B1.1(a) and 5C1.1)

Check the applicable box that corresponds to the Guideline Range entered in Item 6 or Item 7, if applicable.

**Zone A** (See §§5B1.1(a)(1) & 5C1.1(a) & (b))☐

If checked, the following options are available:

- Fine (See §§5C1.1(b) & 5E1.2(a))
- “Straight” Probation (See §§5B1.1(a)(1) & 5C1.1(b))
- Imprisonment (See §5C1.1(a) & (c)(1))

**Zone B** (See §§5B1.1(a)(2) & 5C1.1(a) & (c))☐If checked, *the minimum term may be satisfied by:*

- Imprisonment (See §5C1.1(a) & (c)(2))
- Imprisonment of ***at least one month plus supervised release*** with a condition that substitutes community confinement or home detention for imprisonment (See §5C1.1(c)(2))
- Probation with a condition that substitutes intermittent confinement, community confinement, or home detention for imprisonment (See §§5B1.1(a)(2) and 5C1.1(c)(3))

**Zone C** (See §5C1.1(a) & (d))☐If checked, *the minimum term may be satisfied by:*

- Imprisonment (See §5C1.1(a) & (d)(1))
- Imprisonment of ***at least one-half of the minimum term plus supervised release*** with a condition that substitutes community confinement or home detention for imprisonment (See §5C1.1(d)(2))

**Zone D** (See §5C1.1(a) & (f))☒If checked, *the minimum term is to be satisfied by a sentence of imprisonment***10. Length of Term of Probation** (See §5B1.2)

If probation is imposed, the guideline for the length of such term of probation is: (Check the applicable box)

☐

At least one year, but not more than five years if the offense level total is 6 or greater.

☐

No more than three years if the offense level total is 5 or less.

**Worksheet D — Determining the Sentence** [Page 3 of 4]Defendant Hatem AtayaDocket Number 15-CR-20351**11. Supervised Release** (See §§5D1.1 and 5D1.2)**a. Imposition of a Term of Supervised Release:**☐

Ordered because required by statute (See §5D1.1(a)(1)).

☒

Ordered because a sentence of imprisonment of more than one year is imposed (See §5D1.1(a)(2)).

☐Is **not** ordered although a sentence of more than one year is imposed, because it is not required by statute **and** the defendant likely will be deported after imprisonment (See §5D1.1(c)).☐

Ordered because it may be ordered in any other case (See §5D1.1(b)).

**b. Length of Term of Supervised Release**

Check the Class of the Offense:

☐

Class A or B Felony: Two to Five Year Term (See §5D1.2(a)(1))

☒

Class C or D Felony: One to Three Year Term (See §5D1.2(a)(2))

☐

Class E Felony or Class A Misdemeanor: One Year Term (See §5D1.2(a)(3))

☐

If a statutorily required mandatory minimum term of supervised release for the offense impacts the guideline range for the applicable Class of Offense above, also check this box, and list the statutory minimum term (See §5D1.2(c)):

\_\_\_\_\_ years mandatory minimum term of supervised release

☐

If an offense in 18 U.S.C. § 2332b(g)(5)(B) that resulted in, or created a foreseeable risk of, death or serious bodily injury to another person; or if a sex offense, the term of supervised release will not be less than the minimum term established above, and may be up to life (See §5D1.2(b)).

Policy Statement: If a sex offense, the *statutory maximum term* of supervised release is recommended.**12. Restitution** (See §5E1.1)**a. If restitution is applicable, enter the amount. Otherwise enter "N/A" and the reason:**\$4,119,711.29**b. Enter whether restitution is statutorily mandatory or discretionary:**Mandatory.**c. Enter whether restitution is by an order of restitution, or *solely* as a condition of supervision. Enter the authorizing statute:**Order of restitution.



**Worksheet D — Determining the Sentence** [Page 4 of 4]Defendant Hatem AtayaDocket Number 15-CR-20351**13. Fines (The Guideline Range for Fines for Individual Defendants) (See §5E1.2)****a. Special Fine Provisions****Minimum****Maximum**☐

Check box if any of the counts of conviction is for a statute with a special fine provision. (This **does not** include the general fine provisions of 18 USC § 3571(b)(2) & (d)).

Enter the sum of statutory maximum fines for all such counts.

\$

**b. Fine Table (§5E1.2(c)(3))**

Enter the minimum and maximum fines.

\$25,000

\$250,000

**c. Fine Guideline Range**

(Determined by the minimum of the Fine Table (Item 15(b)) and the greater maximum above (Item 15(a) or 15(b))).

\$25,000

\$250,000

**d. Ability to Pay**☐

Check this box if the defendant does not have an ability to pay.

**14. Special Assessments for Individual Defendants (See §5E1.3)**

Enter the total amount of the statutory special assessments required for all counts of conviction:

- \$100 for each felony count of conviction.
- \$25 for each Class A misdemeanor count of conviction.
- While not subject to guideline sentencing, the special assessments for a Class B misdemeanor, and a Class C misdemeanor or infraction are \$10 and \$5 per count, respectively.

TOTAL:

\$100

**15. Factors That May Warrant a Departure (See §1B1.1(b))**

Consider Chapter Five, Part H (Specific Offender Characteristics) and Part K (Departures), and other policy statements and commentary in the *Guidelines Manual* that might warrant consideration in sentencing. (See also the "List of Departure Provisions" included in the *Guidelines Manual* after the Index).

**16. Factors That May Warrant a Variance (See §1B1.1(c))**

Consider the applicable factors in 18 U.S.C. § 3553(a) taken as a whole.

Completed by \_\_\_\_\_

Date \_\_\_\_\_